
EXHIBIT A

United States District Court
Southern District of New York

United States of America,

-against-

Ethan Melzer,

Defendant.

ATTORNEY DECLARATION

S1 20 Cr. 314 (GHW)

I, Jonathan Marvinny, Esq., hereby declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an attorney with the Federal Defenders of New York and have been appointed to represent defendant Ethan Melzer. I submit this declaration in support of his motions *in limine* and for a bill of particulars. All statements made herein are based on information and belief, unless otherwise indicated.
2. Melzer is charged by superseding indictment with eight counts: conspiracy to murder U.S. nationals abroad (Count One); attempted murder of U.S. nationals abroad (Count Two); conspiracy to murder U.S. service members (Count Three); attempted murder of U.S. service members (Count Four); attempted provision of material support to terrorists (Count Five); conspiracy to murder and maim abroad (Count Six);¹ illegal transmission of national defense information (Count Seven); and illegal delivery of national defense information (Count Eight).
3. Trial is scheduled to begin on April 25, 2022. The government has produced voluminous discovery including, among other material, thousands of online communications, dating

¹ The government has informed the defense that it anticipates dropping Count Six prior to trial.

back to at least 2018, involving Melzer and a large number of other individuals on multiple online platforms. Because of the format in which these communications have been produced—primarily through extraction reports of Melzer’s various electronic devices—it is difficult to precisely quantify the amount of discovery at issue. But it is equivalent to many thousands of pages of documents.

4. The government alleges that Melzer is a member of the Order of the Nine Angles (“O9A”), a supposed white supremacist group. Melzer denies belonging to O9A. Though O9A-related texts were found in his possession upon his arrest, and though he claimed online to have self-initiated into O9A, in his post-arrest statements to law enforcement he repeatedly denied having joined. He said instead that his claims of membership were bluster—falsities designed to impress the people he was communicating with online. Melzer—who when speaking to law enforcement repeatedly erroneously referred to the group as the Order of the Nine “Angels”—explained that, though he had some “curiosity” in O9A, he believed it was “weird,” “out there,” and “pretty much a cult,” and considered its beliefs to be the “polar opposite” of his own.
5. On December 9, 2021, the government advised pursuant to Fed. R. Crim. P. 16(a)(1)(G) that it would seek to call Dr. Peter Simi, an Associate Professor of Sociology at Chapman University, to testify as an expert on white supremacist movements, including O9A. The notice included Dr. Simi’s CV and transcripts of two examples of his prior testimony.
6. After receiving that notice, in compliance with Local Criminal Rule 16.1, the defense requested by letter dated January 11, 2022, that the government provide additional information concerning Dr. Simi’s qualifications and proposed testimony. In the same letter,

the defense requested that the government identify each of Melzer's alleged co-conspirators and produce any discovery that relates to them.

7. The government responded, in a letter dated January 26, 2022, by providing supplemental notice concerning Dr. Simi's testimony.
8. The defense contends that the government's expert notices are deficient for a number of reasons. And the government has not identified or provided any information concerning Melzer's alleged coconspirators. Thus, despite a good-faith effort to resolve by agreement certain of the issues raised by Melzer's motions, the parties require the intervention of the Court.

Dated: New York, New York
February 1, 2022

/s/ Jonathan Marvinny
Jonathan Marvinny